

75-3828

DCI/IC 75-3828  
20 October 1975

MEMORANDUM FOR The Director of Central Intelligence

SUBJECT Comments on the New PFIAB Charter

1. Attached are a memorandum for your signature to Jack Marsh and its enclosure of comments on the 15 October draft of the proposed Executive Order on the President's Advisory Board on the Foreign Intelligence Community. Comments are due by close of business today.

2. These comments were prepared in consultation with John [redacted] CGC, and [redacted] LC.

3. The basic thrust of the proposed EO is that the new Board will have about the same responsibilities as the PFIAB has exercised plus a watchdog role with respect to Community compliance with directives governing its activities.

4. Individual employees at any level will be able to report alleged improprieties to the Board for investigation, and you and other agency heads are authorized to request advice from the Board if you are concerned about the propriety of any activity.

5. Some of the comments relate to matters which are not within your province but which need to be looked into. e.g., can a military officer be relieved of any control from his department if assigned to the Board staff.

Baron V. Wilson  
Lieutenant General USA  
D/DCI/IC

Attachment  
As stated

EXECUTIVE SECRETARY

MORI/CDF

**Page Denied**

75-8326/6

20 OCT 1975

The Honorable John O. Marsh, Jr.  
Counsellor to the President  
The White House  
Washington, D. C. 20500

Dear Jack:

Reference is your memorandum of 16 October requesting comments on the 15 October draft of the proposed Executive Order on the President's Advisory Board on the Foreign Intelligence Community.

Attached are my comments and questions concerning the draft.

In my view this draft will serve the purpose far better than the two earlier versions provided us for comment.

I have no objection to the new title of the Board, as such, but somehow pronouncing the new acronym "PABFIC" doesn't have quite the same ring as "PFIAL."

Sincerely,

W. A. Colby

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(20 October 1975)

20 October 1975

PROPOSED CHANGES AND QUESTIONS CONCERNING THE 15 OCTOBER  
DRAFT OF THE REVISED EXECUTIVE ORDER ON THE PRESIDENT'S  
ADVISORY BOARD ON THE FOREIGN INTELLIGENCE COMMUNITY

(NOTE: New or amended language is underlined, deletions are lined through.)

Revise the preamble as follows:

"In order to provide the ~~There-is-a-need-for-improved~~ necessary review of the foreign intelligence community and advice to the President on the quality and control of the community's activities, ~~and-its-compliance-with-law.~~ this order establishes the President's Advisory Board on the Foreign Intelligence Community ~~to-perform-these-tasks.~~"

Reason: To put a positive rather than a negative connotation on the basis for issuance of the executive order.

Reference Section 1 (a)

"(a) Review and advise the President concerning foreign intelligence and counterintelligence activities of the United States Government. The Board's area of concern shall include quality of foreign intelligence collection and ~~estimates-~~ production, organization and management of the foreign intelligence community, and compliance of the foreign intelligence community with applicable provisions of the Constitution and laws of the United States, executive orders, and directives of the President and the National Security Council."

REASON: "Production" is a broader term than "estimates."  
The President may issue directives which are not NSC directives.

Reference Section 1 (b):

"(b) receive, consider and make recommendations with respect to matters identified to the Board by the Director of Central Intelligence or by officials of ~~the-Central~~

~~Intelligence Agency, the Department of Defense, the Federal Bureau of Investigation and other~~ Government departments, agencies, and organizations of the foreign intelligence community."

REASON: The retained wording is all-inclusive.  
The wording struck out is not considered to add anything to the paragraph.

Reference Section 2

"Section 2. The Board may receive, investigate, consider and make appropriate recommendations with respect to allegations of improprieties involving agencies within the foreign intelligence community made by employees of such agencies. ~~In this connection~~ In addition, the Director of Central Intelligence, the Director of ~~FBI~~ the Federal Bureau of Investigation, and the heads of other departments, agencies and organizations comprising the foreign intelligence community, and the Inspectors General thereof, ~~on appeal from their organization heads~~, may seek advice of the Board with respect to activities or categories of activities which in the light of the statutory authority of any such agency, or any restrictions imposed by law or Executive Order, may have been or, if implemented, might be, improper or appear to be improper. As appropriate the Chairman of the Board may request the advice and opinion of the Attorney General, and may designate a special panel of the Board to receive review such allegations and make recommendations on them to the Board on such allegations."

REASON: The matter of an IG going to the Board in appeal from the decision of his agency head is covered in Section 4(b). Its inclusion here is confusing. The Board Chairman should have specific authority to go to the Attorney General. Other changes are editorial.

Reference Section 4 (a)

Delete the last word, so the final phrase reads:

"and the Inspectors General thereof, shall ~~regularly~~:

REASON: "Regularly" implies periodic, and it is not considered this is what is intended.

Reference Section 4 (a) (2)

"(2) notify the Board, as appropriate, of major issues in the foreign intelligence community."

REASON: Some major issues such as those presented to the 40 Committee, would not in all cases need to be submitted to the Board, so a qualifying phrase has been introduced.

Reference Section 4(b)

"(b) Each Inspector General (or other official with equivalent duties) of the foreign intelligence community may appeal decisions of the head of his organization directly to the Board provided that he shall first notify the head of his organization of such appeal. ~~shall have the authority to report directly to the Board, after notifying the head of his organization, to appeal his decisions-~~

REASON: Clarity

Reference Section 4 (c)

"(c) The head of each organization in the foreign intelligence community shall designate in writing to the Board the name of an individual and office to serve as the primary point of contact in support of Board functions. ~~In addition, the Board is authorized to call upon persons at all levels within the foreign intelligence community.~~

REASON: Deletion of the final sentence is recommended in order to regularize contact of the Board with organizations of the community. The Board should deal with each organization either through its senior official or the designated officer. Provision already has been made in Section 2 for employees of intelligence organizations to contact the Board on matters of alleged improprieties.

Reference Section 5

This section makes no mention of the number of members to be appointed, their tenure, nor the salary level. It is considered all three of these matters should be treated in Section 5.

Reference Section 6

"Substantial time" is ambiguous; it is suggested either "full-time" or "more than half-time" be substituted.

Reference Section 7

Careful check should be made of the legality of the provision that a military officer detailed to the Board "shall be subject to no supervision, control, restriction or prohibition" from his department. There may well be statutory provisions which this Executive Order could not override. For example, a military officer probably would still be subject to military court martial even though assigned to the Board staff.

Proposed addition as a new Section 5, with all subsequent sections renumbered.

"Section 5. The Board shall report to the President regularly regarding the functions enumerated herein, and shall provide an annual unclassified report to the President for his approval and public release, evaluating the performance of the US foreign intelligence community. This unclassified report shall be supported by such classified annexes as the Board considers necessary.